IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 17557 of 2003

with

SPECIAL CIVIL APPLICATION No 17561 of 2003

with

SPECIAL CIVIL APPLICATION No 17563 of 2003

For Approval and Signature:

HON'BLE MR.JUSTICE K.S.JHAVERI

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the concerned Magistrate/Magistrates,Judge/Judges,Tribunal/Tribunals? : NO

JALALPORE GRAM PANCHAYAT

Versus

NARESHKUMAR RAMANLAL PATEL

Appearance:

1. Special Civil Application No. 17557 of 2003
   MR JB PARDIWALA for Petitioner No. 1
   RULE SERVED BY DS for Respondent No. 1
2. Special Civil Application No. 17561 & 15763 of 2003
   MR JB PARDIWALA for Petitioner No. 1
   RULE SERVED BY DS for Respondent No. 1

CORAM : HON'BLE MR.JUSTICE K.S.JHAVERI

Date of decision: 15/07/2004

ORAL COMMON JUDGEMENT

1.0. In this group of petitions, the petitioner Jalapore Gram Panchayat has challenged the award of the Labour Court dated 16th October, 2003, whereby the Labour Court allowed applications Nos. 1 of 1999, 1 of 2000 and 1 of 2001, filed under the Minimum Wages Act, directing the petitioner - Panchayat to pay Rs.30,662=00 and penalty of Rs.1,53,310=00.

2.0. The short facts of the case are that the respondent was appointed as Rojamdar Tax Clerk in September, 1989 and was paid monthly salary of Rs.900=00 from 1st August, 1993. The respondent preferred application being Recovery Application No. 45 of 1999 before the Labour Court on 5th May, 1999 for recovery of Rs.1,01,658=40. The said application was partly allowed vide order dated 31st May, 2002 with a direction to pay Rs.33,557=40 being difference of salary and Rs.10,570=00 being dues in respect of leave. Against the above order, the petitioner preferred Special Civil Application No. 9922 of 2002 before this Court. This Court [Coram : Miss R.M. Doshit, J.] vide order dated 13th October, 2003, confirmed ad-interim relief as prayed for on condition that the principal amount due and payable to the respondent under the impugned judgment and award dated 31st May, 2002 shall be paid in four monthly installments of Rs.10,000=00. The respondent also filed application being Minimum Wages Applications Nos. 1 of 1999, 1 of 2000 and 1 of 2001 for recovery of Rs.6825=00 being difference of salary from May, 1999 to September, 1999 and prayed for ten times of the amount.

2.1. After considering the evidence and submissions of the both the sides, the Labour Court passed common order dated 16th October, 2003 in all the three applications and allowed the applications with the aforesaid direction. It is this order which is now under challenge in this petition.

3.0. Mr. Pardiwala, learned advocate for the petitioner submitted that the petitioner has paid regular salary to the employees and Minimum Wages Act will not apply to the case of the petitioner, inasmuch as they are governed by the Government payscale and, therefore, the Labour Court ought not to have entertained the

application under Minimum Wages Act. Mr. Pardiwala in the alternative submitted that assuming that the Labour Court has jurisdiction, even then looking to the fact that the Panchayat is established under the Statutory authority, the Labour Court ought not to have imposed penalty five times of the amount to be paid to the employees. Looking to the facts and circumstances of the case, I am of the opinion that the penalty warrants interference in view of the the fact that the petitioner is eligible under the Panchayat Act.

4.0. In the result, the petitions are partly allowed. The order of the Labour Court is modified to the extent that the order of penalty imposed on the petitioner vide impugned order dated 16th October, 2003 is required to be quashed and set aside as a special case. Further the petitioner will be pay interest at the rate of 9% on the amount in question from the date of the application before the Labour Court till the period the payment is made. Rule is made absolute to the aforesaid extent, in each of the petitions.

[K.S. JHAVERI, J.]

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